

Memorandum

To : Mr. Ramon J. Hirsig
Executive Director, MIC:73

Date: January 16, 2007

From : Kristine Cazadd, Chief Counsel
Legal Department, MIC:83

Subject : Regulation 1668, *Sales for Resale*
Chief Counsel's Rulemaking Calendar
Board Meeting—February 1, 2007

To clarify the penalty for misuse of a resale certificate in Sales and Use Tax Regulation 1668, *Sales for Resale*, we request your approval to place proposed revisions to the regulation on the Chief Counsel's Rulemaking Calendar on February 1, 2007, for Board authorization to amend the regulation under section 100, without the normal notice and public hearing process.

Revenue and Taxation Code (RTC) sections 6072 and 6094.5 each provide that a penalty of 10 percent of tax due or five hundred dollars (\$500), whichever is greater, is imposed on a person who gives a resale certificate for property which he or she knows will not be resold by him or her in the regular course of business. Currently, sections 6072 and 6094.5 are referenced in Regulation 1668 under the heading "Improper Use of Certificate" in subsection (d), but the penalty is not described. Revisions to subsection (d) are proposed to specify and describe the penalty that may be imposed for misuse of a resale certificate. Proposed revisions also clarify that the other penalties referenced in Regulation 1668(d)(2), the 10 percent penalty for negligence and the 25 percent penalty for fraud provided in RTC sections 6484 or 6485, may be imposed in addition to the penalty of 10 percent of tax due or \$500, whichever is greater. This change is appropriate for processing under section 100 because it enhances the regulation's consistency with RTC sections 6072 and 6094.5.

Attached is the strikeout and underlined version of the regulation.

If you have any questions regarding this request, please let me know or contact Ms. Lisa Andrews at 322-5989.

Recommendation by:

Approved:

Kristine Cazadd, Chief Counsel

Ramon J. Hirsig, Executive Director

Approved:

BOARD APPROVED

At the _____ Board Meeting

Randie L. Henry, Deputy Director
Sales and Use Tax Department

Gary Evans, Acting Chief
Board Proceedings Division

Attachments

cc (all with attachments):

Ms. Randie L. Henry (MIC 43)
Mr. Gary Evans (MIC 80)
Mr. Robert Lambert (MIC 82)
Ms. Trecia Nienow (MIC 82)
Mr. Reed Schreiter (MIC 85)
Mr. Jeffrey L. McGuire (MIC 92)
Mr. Geoffrey E. Lyle (MIC 50)
Ms. Leila Khabbaz (MIC 50)
Ms. Lisa Andrews (MIC 50)